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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|------------------------|---------------------|------------------|
| 10/762,936   | 01/22/2004  | Paul David Ringgenberg | 990122U1D3C1D1USA   | 5693             |
| 20558  | 7590        | 01/31/2005             | EXAMINER            |                  |
| KONNEKER & SMITH P. C.<br>660 NORTH CENTRAL EXPRESSWAY<br>SUITE 230<br>PLANO, TX 75074 |             |                        | BEACH, THOMAS A     |                  |
|  |             |                        | ART UNIT            | PAPER NUMBER     |
|  |             |                        | 3671                |                  |

DATE MAILED: 01/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/762,936             | RINGGENBERG ET AL.  |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Thomas A Beach         | 3671                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 187-221 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 187-189, 192-194, 196-205, 207, and 208 is/are rejected.
- 7) Claim(s) 190, 191, 195, 206 and 209-221 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/22/04, 11/03/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### ***Claim Objections***

1. Claim 187 is objected to because of the following informalities: it is unclear from the claim and the specification what exactly defines the first and second zones, "intersecting" the wellbore is not clearly shown or disclosed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 187-189, 192-194, 196-205, 207, and 208 are rejected under 35 U.S.C. 102(e) as being anticipated by Ringgenberg et al 5,799,733. The applied reference has a common inventor with the instant application. Based upon the earlier

effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Ringgenberg shows well testing system having a formation test assembly positioned in a wellbore of the well, the formation test assembly including an internal chamber 46 and a first flow control device 51 controlling flow between the chamber and a first zone 16 intersected by the wellbore, the first flow control device being opened to permit fluid flow from the first zone into the chamber, and the first flow control device being closed while fluid is flowed from the chamber into a second zone intersected by the wellbore.

As concern claim 188, Ringgenberg shows the formation test assembly further includes a sampler 52,53, the sampler taking a sample of the formation fluid in the chamber.

As concern claim 189, Ringgenberg shows the chamber is formed between the first flow control device and a second flow 77 control device of the formation test assembly, the chamber having a volume between the first and second flow control devices greater than that of the sampler (figs 1a-1b).

As concern claim 192, Ringgenberg shows the formation test assembly includes at least one fluid property sensor 430, the sensor sensing at least one fluid property of the formation fluid in the chamber.

As concern claim 193-194, Ringgenberg shows an indication of the fluid property sensed by the sensor is transmitted to a remote location while the sensor senses the fluid property (col. 29, lines 5-10) and an indication of the fluid property sensed by the sensor is stored in the formation test assembly while the sensor senses the fluid property.

As concern claims 199-198, Ringgenberg shows the sensor is a fluid identification sensor, a solids sensor, or a fluid density sensor since they are known in the art (col. 29, lines 5-10).

As concern claim 199, Ringgenberg shows the formation test assembly prevents the formation fluid from flowing to the earth's surface while the formation fluid flows through the first flow control device (figs 1a-1b).

As concern claims 200-201, Ringgenberg shows the formation test assembly is interconnected in a segmented tubular string 102 which is considered continuous as well, as shown figures 2a-b.

As concern claim 202, Ringgenberg shows the formation test assembly is connected to a wireline 82 in the wellbore.

As concern claims 203-204, Ringgenberg shows the formation test assembly includes a pump 54 pumping operated from a remote location.

As concern claim 207, Ringgenberg shows comprising a tubular string connected to the formation test assembly, and wherein the pump is operated by applying pressure to the tubular string at a remote location (figs. 1a-1b).

As concern claim 208, Ringgenberg shows an annulus is formed between the formation test assembly and the wellbore, and wherein the formation test assembly includes a packer 20,22 isolating a first portion of the annulus in communication with the first zone from a second portion of the annulus in communication with the second zone.

***Allowable Subject Matter***

4. Claims 190-191, 195, 206, and 209-221 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 703.305.4848. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703.308.3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 or

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703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

Thomas A. Beach

January 19, 2005

